

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 28**

**VALLEY HEALTH SYSTEM LLC, d/b/a  
DESERT SPRINGS HOSPITAL MEDICAL CENTER,  
and VALLEY HOSPITAL MEDICAL CENTER, INC.,  
d/b/a VALLEY HOSPITAL MEDICAL CENTER**

**and**

**SERVICE EMPLOYEES INTERNATIONAL UNION,  
LOCAL 1107**

<b>Cases</b>	<b>28-CA-184993</b>
	<b>28-CA-185013</b>
	<b>28-CA-189709</b>
	<b>28-CA-189730</b>
	<b>28-CA-192354</b>
	<b>28-CA-193581</b>
	<b>28-CA-194185</b>
	<b>28-CA-194194</b>
	<b>28-CA-194450</b>
	<b>28-CA-194471</b>
	<b>28-CA-194790</b>
	<b>28-CA-195235</b>
	<b>28-CA-197426</b>

**GENERAL COUNSEL’S OPPOSITION TO  
RESPONDENTS’ REQUEST TO POSTPONE HEARING**

Counsel for the General Counsel (CGC), in response to the Associate Chief Administrative Law Judge’s Order to Show Cause, submits this Opposition to Respondents’ Motion to Postpone Hearing (the Motion) filed on June 8, 2017, and Supplemental Request to Postpone Hearing (the Supplemental Motion, collectively the Motions) filed on June 13, 2017.<sup>1</sup>

The Motion seeks to postpone the hearing in this matter, which is currently scheduled to commence on June 26, 2017, until August 14, 2017, or later. For the reasons set forth below, CGC opposes Respondents’ Motion.

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<sup>1</sup> The Motions were both served only on CGC Stephen Kopstein. On June 8, 2017, in response to the Motion, CGC Kopstein requested Respondents serve future documents related to these cases on CGC Sara Demirok and Charging Party Counsel Jonathan Cohen.

On March 7, 2017, a Consolidated Complaint and Notice of Hearing (the Consolidated Complaint) issued in this matter, alleging that Respondents engaged in unfair labor practices within the meaning of Section 8(a)(1) and (5) of the National Labor Relations Act (the Act) by interfering with the Union's posting of materials on its bulletin boards at Respondents' facility, and specifically, by unilaterally determining that posted materials must be removed from the bulletin boards based on their content and removing them. The Consolidated Complaint notified Respondents that the hearing in this matter was scheduled for June 26, 2017. Even at the time the Consolidated Complaint was issued, Respondents were on notice of a growing number of charges that were being investigated by Region 28, including a number of the charges that were later consolidated with the instant matter.

On June 5, 2017, an Order Further Consolidating Cases, Second Consolidated Complaint and Notice of Hearing (the Second Consolidated Complaint) issued in this matter alleging that Respondents engaged in additional unfair labor practices within the meaning of Section 8(a)(1) and (5) of the National Labor Relations Act (the Act), including: interfering with the Union's access rights by unilaterally imposing new restrictions on access; by Respondent Desert Springs, unilaterally promulgating an overly-broad and discriminatory rule or directive applying to Union supporters; by Respondent Desert Springs, creating the impression of surveillance of employees' union activities; by Respondent Desert Springs, providing more than ministerial assistance to its employees in removing the Union as their collective-bargaining representative; by Respondent Desert Springs, engaging in surveillance of employees' union activities; by Respondent Desert Springs, soliciting employees to sign cards saying they no longer wished to be represented by the Union; by Respondent Valley, refusing to provide requested information to the Union; withdrawing recognition of the Union; and granting employees wage increases following the

withdrawal of recognition unilaterally, and in order to undermine support for the Union. Prior to issuing the Second Consolidated Complaint, the Region presented Respondents' with a Formal Settlement Agreement addressing all allegations of the Second Consolidated Complaint. Respondents were informed at that time that the Second Consolidated Complaint would issue on the date that it did. In addition to issuing the Second Consolidated Complaint, in view of the likelihood that unfair labor practices of the nature alleged in the Second Consolidated Complaint will result in irreparable harm to employees' rights to bargain collectively through representatives of their own choosing under Section 7 of the Act, the Regional Director of Region 28 submitted a recommendation concerning the appropriateness of injunctive relief under Section 10(j) of the Act to the Board's Injunction Litigation Branch. Respondents were notified of the Region's intent submit the recommendation and provided their own position on the issue.

Respondents' request for a postponement rests on their assertions that they need more time to prepare a defense and respond to subpoenas duces tecum issued at the request of Counsel for the General Counsel. In making these assertions, Respondents complain about when and how they were served the Second Consolidated Complaint and attempt to give the impression that the additional allegations raised in the Second Consolidated were sprung upon them without any notice, leaving them without time to prepare. They further argue that CGC's subpoenas, issued on June 12, 2017, are burdensome and therefore form another basis to postpone.

Respondents' assertions do not warrant a postponement. As discussed above, Respondents have been on notice of charges raising a majority of the allegations now appearing in the Second Consolidated Complaint since before the initial Consolidated Complaint ever issued. Respondents themselves represent that they have cooperated throughout the investigations of every charge, and, thus, they necessarily have already investigated and provided

responses to each allegation. The most recent charge filed dates back to April 24, 2017, over two months before the scheduled hearing date in this matter. Thus, in arguing that they are at a disadvantage because they were in the dark as to what is now before the Administrative Law Judge (the ALJ), Respondents ignore the long process that led to the issuance of the Second Consolidated Complaint.

CGC's subpoenas were served on Respondents on June 12, 2017, two weeks before the hearing. Subpoenas served two weeks before a hearing are timely. NLRB Casehandling Manual (Part One) Service of Trial Subpoenas Sec. 10340. If Respondents wish to argue the subpoenas are unduly burdensome, Respondents are able to file a timely petition to revoke.

Respondents emphasize the "potential consequences" at stake here, specifically pointing out a bargaining order and monetary liabilities, as a reason they need more time to prepare. However, the denial of employees' right to representation should outweigh any other potential consequences in this matter. With every day that goes by, employees are being denied representation by their elected representative, the Union, and the benefits that should have remained from their expired collective bargaining agreement. Moreover, every day that goes will only further undermine the Union's ability to effectively represent Respondents' employees should the Board or a district court ultimately issue a bargaining order in this case. Thus, the gravity of *status quo* should, just as it led the Region to seek authorization for an injunctive order, lead the ALJ to deny the Motion because of the Section 7 rights that are being denied.

Tellingly, Respondents do not assert any conflict with their schedules or the schedules of their witnesses or give any reason that they are logistically unable to present Respondents' evidence on the currently scheduled hearing dates. Rather, Respondents baldly assert that they need at least two and a half months to prepare. Given that Counsel for the General Counsel is

prepared to move forward and Respondents have not provided any specifics as far as what could possibly take two and half months to prepare, it appears that Respondents' suggested timeline is actually just an effort to stall. But again, the serious nature of the allegations demands prompt relief.

In sum, given the nature of the allegations raised by the Consolidated Complaint, the harm a delay in the hearing could cause for Respondents' employees significantly outweighs the concerns cited by Respondents. Based on the foregoing, Counsel for the General Counsel respectfully requests denial of Respondents' Motion.

Dated at Phoenix, Arizona, this 13<sup>th</sup> day of June 2017.

/s/ Sara S. Demirok

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## CERTIFICATE OF SERVICE

I hereby certify that a copy of GENERAL COUNSEL'S OPPOSITION TO RESPONDENTS' REQUEST TO POSTPONE HEARING in Valley Health System LLC, d/b/a Desert Springs Hospital Medical Center, and Valley Hospital Medical Center, Inc., d/b/a Valley Hospital Medical Center, Cases 28-CA-184993, 28-CA-185013, 28-CA-189709, 28-CA-189730, 28-CA-192354, 28-CA-193581, 28-CA-194185, 28-CA-194194, 28-CA-194450, 28-CA-194471, 28-CA-194790, 28-CA-195235, and 28-CA-197426, was served by E-Gov, and E-Filing, email and/or US mail on this 13<sup>th</sup> day of June, 2017, on the following:

***Via E-Gov & E-Filing:***

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